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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,990	06/13/2003	Emily F. Hamilton	CU-3263 RJS	7125
26530	7590	04/10/2006	EXAMINER	
LADAS & PARRY LLP 224 SOUTH MICHIGAN AVENUE SUITE 1600 CHICAGO, IL 60604			APANIUS, MICHAEL	
		ART UNIT	PAPER NUMBER	
		3736		

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/600,990	HAMILTON, EMILY F.
Examiner	Art Unit.	
Michael Apanius	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 February 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 29-39 and 43-47 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-28,40-42 and 48 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 June 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/03 & 11/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I in the reply filed on 20 February 2006 is acknowledged. The traversal is on the ground(s) that a proper search would not be a serious burden on the Examiner because the groups contain substantially similar limitations such that a search for one group would necessarily uncover art for the other groups. Furthermore, Applicant argues that the field of search is nearly the same for each group. Although the Examiner agrees to combine Group I (claims 1-14, 40-42 and 48) and Group II (claims 15-28), the Applicant's arguments are not found persuasive in regards to Groups III and IV. In regards to Group III, claim 30 requires "a memory unit". Groups I and II do not recite a memory unit and therefore, Group III would require a different search (for example, a different text search query including a memory unit). Furthermore, art found in a search for Groups I and II may not have a memory unit as required in claim 30. In regards to Group IV, claim 44 requires a client-server system that is operative to exchange messages over a data network. Groups I and II do not recite this limitation and therefore, Group IV requires a different search. In addition, art found in a search for Groups I and II may not disclose a client-server system that is operative to exchange messages over a data network.
2. Claims 29-39 and 43-47 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable

generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 20 February 2006.

3. The requirement is still deemed proper and is therefore made FINAL.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description on page 20: "600", "602", "604", "700", "702", "704" and "706". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities: at page 17, lines 1-2, it appears that "processing unit 106" should be either --display unit 106-- or --processing unit 104-- and at page 8, line 16, it appears that "108," should not have a comma. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-7, 10, 15-21, 24, 40-42 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Oriol et al. (US 5,596,993). In regards to claims 1, 40 and 48, Oriol discloses a system for monitoring an obstetrics patient, comprising: a) an interface (122; column 20, lines 17-21) for receiving a measurement (column 2, lines 58-61) of a health characteristic of the obstetrics patient, the measurement is inherently associated with a likelihood of a certain outcome; b) an apparatus comprising: an input (connection between the user interface and the processing unit 104) for receiving a signal indicative of the measurement of the health characteristic of the obstetrics patient; a processing unit (104) coupled to said input, said processing unit being operative for processing said signal to derive data indicative of an action for causing a change in the likelihood of the certain outcome; an output (112) coupled to said processing unit, said output being suitable for releasing an output signal for causing a display unit to display information derived on the basis of the data indicative of the action for causing the likelihood of the certain outcome to be modified; c) a display unit (108) coupled to the output of said apparatus, said display unit being responsive to the output signal to display the information derived on the basis of the data indicative of the action for causing the likelihood of the certain outcome to be modified. Note that recommendations (column

19, lines 39-41) are deemed to be the data indicative of an action for causing a change in the likelihood of the certain outcome. In regards to claim 2, the health characteristic is inherently modifiable. In regards to claim 3, the action will change the likelihood of the certain outcome. In regards to claims 4 and 5, the measurement is a health characteristic of a fetus and/or of a pregnant women (column 2, lines 58-61). In regards to claim 6, the processing unit is adapted for: a) processing (i.e. column 3, lines 13-16) the signal indicative of a measurement of a health characteristic to derive a data element indicative of the likelihood of the certain outcome; b) deriving data indicative of an action for causing the health characteristic to be modified such as to cause a change in the likelihood of the certain outcome at least in part on the basis of: i. the data element indicative of the likelihood of the certain outcome; ii. the signal indicative of the measurement of the health characteristic of the obstetrics patient. In regards to claim 7, the measurement is indicative of uterine contractions (column 2, line 60). In regards to claims 10 and 42, the output device outputs a signal to either a display screen (108). In regards to claim 15-20 and 24, Oriol discloses the method limitations in the normal operation of the system stated above. In regards to claim 41, the interface could be a keyboard (122). In regards to claim 48, the limitations are met as stated above.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8, 9, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oriol et al. (US 5,596,993) in view of Atad (US 4,976,692). Oriol does not expressly disclose measurement of the ripeness of the cervix. Atad teaches measurement of cervical ripeness to determine if artificial ripening should be carried out (column 3, lines 32-40). Note that a measurement of cervical ripeness is inherently indicative of the likelihood of delivery by cesarean section. It would have been obvious to one having ordinary skill in the art to use a measurement of cervical ripeness as taught by Atad as an additional measurement in the method and apparatus of Oriol in order determine if artificial ripening should be carried out and therefore, improve fetal monitoring.

10. Claims 11 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oriol et al. (US 5,596,993) in view of Almog (US 6,024,701). Oriol discloses the use of a display screen but does not expressly disclose printing to a printing device. Almog teaches that displays and printers are well known alternative data output devices (column 8, lines 55-59). Furthermore, it is well known in the art that data processed on a processing unit can be printed on printing device. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to have used a printing device as taught by Almog in the method and apparatus of Oriol because printing data on a printer is well known in the art.

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11. Claims 12, 13, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oriol et al. (US 5,596,993) in view of Enhoring (US 5,636,870). Oriol does not expressly disclose using a patient's blood type or disease status. Enhoring teaches that blood type and disease status are included in a pregnancy medical chart (column 5, lines 39-45) that allows physicians to make better use of patient data to diagnose and treat a patient (abstract). One having ordinary skill in the art would recognize that because blood type and disease status are included on the pregnancy medical chart that they are useful measurements in monitoring, diagnosing, and treating an obstetrics patient. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to have used measurements of patient blood type and disease status as taught by Enhoring as additional measurements in the method and apparatus of Oriol in order to provide additional patient information so that diagnoses and treatment recommendations are improved.

12. Claims 14 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oriol et al. (US 5,596,993) in view of Harrison et al. (US 5,431,171). Oriol does not expressly disclose using a patient's body temperature. Harrison teaches that fetal temperature is critical in detecting fetal distress syndrome so that treatment may be administered as soon as possible (column 5, lines 40-49). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to use fetal temperature as taught by Harrison in the method and apparatus of Oriol in order to

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detect fetal distress syndrome as soon as possible so that treatment may be timely administered.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5,609,156 discloses a fetal monitor. US 5,954,663 discloses a fetal monitoring system and method. US 6,254,537 discloses a fetal outcome predictor and monitoring system.
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Apanius whose telephone number is (571) 272-5537. The examiner can normally be reached on Mon-Fri 8:30am-5pm.
15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA



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